

1 SQUIRE, SANDERS & DEMPSEY L.L.P.  
Mark C. Goodman (Cal. State Bar No. 154692)  
2 Amy E. Rose (Cal. State Bar No. 222167)  
Ann J. Lee (Cal. State Bar No. 236501)  
3 One Maritime Plaza, Suite 300  
San Francisco, CA 94111-3492  
4 Telephone: +1.415.954.0200  
Facsimile: +1.415.393.9887  
5 Email: mgoodman@ssd.com  
Email: arose@ssd.com  
6 Email: ajlee@ssd.com

7 Attorneys for Defendant  
UNITED STATES FIRE INSURANCE COMPANY  
8  
9

10 IN THE UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 (OAKLAND DIVISION)  
13

14 LENS CRAFTERS, INC.; and EYEXAM  
OF CALIFORNIA, INC.;

15 Plaintiffs,  
16

17 vs.

18 LIBERTY MUTUAL FIRE INSURANCE  
COMPANY; EXECUTIVE RISK  
SPECIALTY INSURANCE COMPANY;  
19 UNITED STATES FIRE INSURANCE  
COMPANY; MARKEL AMERICAN  
20 INSURANCE COMPANY; and  
WESTCHESTER FIRE INSURANCE  
21 COMPANY,

22 Defendants.  
23

24 AND RELATED COUNTER- AND  
CROSS-CLAIMS.  
25  
26  
27  
28

Case No. C-07-2853 SBA  
The Honorable Sandra B. Armstrong

**STIPULATION REGARDING UNITED  
STATES FIRE INSURANCE COMPANY'S  
MOTION TO DISMISS MARKEL  
AMERICAN INSURANCE COMPANY'S  
AND WESTCHESTER FIRE INSURANCE  
COMPANY'S CROSS-CLAIMS**

1 Defendants and Cross-Defendants WESTCHESTER FIRE INSURANCE COMPANY  
2 (“Westchester”), MARKEL AMERICAN INSURANCE COMPANY (“Markel”) and UNITED  
3 STATES FIRE INSURANCE COMPANY (“U.S. Fire”) (collectively referred to herein as the  
4 “parties”) by and through their respective counsel, hereby stipulate as follows:

5 WHEREAS, on July 18, 2007, in response to LensCrafters’ and Eyexam’s complaint for  
6 declaratory relief, U.S. Fire moved to dismiss, or alternatively stay, the above-captioned action in  
7 favor of a prior-pending New York State Court action involving the same legal dispute;

8 WHEREAS, in response to the same complaint, both Markel and Westchester filed  
9 counter-claims and cross-claims for declaratory relief (collectively the “cross-claims”);

10 WHEREAS, U.S. Fire is required to plead in response to the cross-claims within 20 days  
11 of service, which date is prior to the September 18, 2007 hearing date on its motion to dismiss  
12 this action;

13 WHEREAS, U.S. Fire’s motion to dismiss, or alternatively stay, this action in favor of a  
14 prior-pending New York State Court action involving the same legal dispute necessarily  
15 encompasses and includes the cross-claims;

16 NOW, THEREFORE, THE PARTIES HEREBY AGREE AND STIPULATE that:

17 (1) In satisfaction of its obligation to respond to the cross-claims, U.S. Fire will file a  
18 notice of motion and motion to dismiss, expressly incorporating the cross-claims to clarify their  
19 inclusion in its motion to dismiss this action in its entirety.

20 (2) Markel and Westchester need not file an opposition to U.S. Fire’s motion to  
21 dismiss, or alternatively stay, this action and U.S. Fire need not file a separate reply in support of  
22 its motion as to the cross-claims.

23 THE PARTIES SO STIPULATE.

24 Dated: August 7, 2007

SQUIRE, SANDERS & DEMPSEY L.L.P.

25 By: /s/ Amy E. Rose

26 Amy E. Rose

27 Attorneys for Defendant and Cross-Defendant  
28 UNITED STATES FIRE INSURANCE  
COMPANY

1 Dated: August 7, 2007

HARRIS, GREEN & DENNISON

2 By: /s/ Robert D. Dennison

3 Robert D. Dennison

4 Attorneys for Defendant  
5 WESTCHESTER FIRE INSURANCE  
6 COMPANY

7 Dated: August 7, 2007

LONG & LEVITT

8 By: /s/ Chip Cox

9 Chip Cox

10 Attorneys for Defendant  
11 WESTCHESTER FIRE INSURANCE  
12 COMPANY

**PROOF OF SERVICE**

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is One Maritime Plaza, Third Floor, San Francisco, California 94111-3492.

On August 7, 2007, I served the following document described as:

**STIPULATION REGARDING UNITED STATES FIRE INSURANCE COMPANY'S  
MOTION TO DISMISS MARKEL AMERICAN INSURANCE COMPANY'S AND  
WESTCHESTER FIRE INSURANCE COMPANY'S CROSS-CLAIMS**

☒ VIA THE UNITED STATES DISTRICT COURT ELECTRONIC FILING SERVICE on interested parties in this action as set forth below:

Richard DeNatale, Esq.  
Celia M. Jackson, Esq.  
Heller Ehrman LLP  
333 Bush Street  
San Francisco, CA 94104-2878  
Telephone: (415) 772-6000  
Facsimile: (415) 772-6268

Terrence R. McInnis, Esq.  
Ross, Dixon & Bell, LLP  
5 Park Plaza, Suite 1200  
Irvine, CA 92614  
Telephone: (949) 622-2700  
Facsimile: (949) 622-2739

Alex F. Stuart, Esq.  
Willoughby, Stuart & Bening  
Fairmont Plaza  
50 West San Fernando, Suite 400  
San Jose, CA 95113  
Telephone: (408) 289-1972  
Facsimile: (408) 295-6375

Robert D. Dennison, Esq.  
Harris, Green & Dennison  
5959 W. Century Blvd., Suite 1100  
Los Angeles, CA 90045  
Telephone: (310) 665-8656  
Facsimile: (310) 665-8659  
rdd@h-glaw.net

Chip Cox, Esq.  
Long & Levitt  
465 California Street  
5th Floor  
San Francisco, CA 94104  
Telephone: (415) 438-4413  
Facsimile: (415) 397-6392  
chipc@longlevit.com

Executed on August 7, 2007, at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/s/ Amy E. Rose  
Amy E. Rose